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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,587	07/20/2001	Randal G. Martin	062986.0214	1407

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EXAMINER	
HAILE, FEBEN	

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
01/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/910,587	**Applicant(s)** MARTIN ET AL.	
	Examiner Feben M. Haile	**Art Unit** 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the Applicants arguments are not persusaive. The Applicant respectfully submits that claims 1-18 are in accordance with 35 U.S.C. 112 therefore the rejection should be withdrawn. The Examiner respectfully disagrees with the Applicant. The alleged support, i.e. page 6 line 32-page7 line 2 of the specification, for the feature of generating data packets in a particular packet flow has been reviewed. However it is not clear how this particular section coincides with the questionable claimed feature since there is only a mention of inserting sequence numbers for each genearted packet. Furthermore, page 6 lines 13-17 disclose generating data packets from data received from a data source. There is no mention that these packets are directed towards a "particular" packet flow. The Applicant respectfully traverses that there is no disclosure in Larsen et al. that allows a second packet in a particular packet flow to be sent on a different one of the plurality of channels than a first data packet. The Examiner respectfully disagrees with the Applicant. Larsen teaches a station selecting, from a plurality of channels, a channel that is free of activity to transmit data. For example, a station might choose channel X to transmit a first data because that channel is free of activity. However, at the time a second data needs to be transmitted if channel X is not free of activity the station can choose channel Y for sending purposes. The Applicant also respectfully traverses that the Doshi et al. patent is not able to receive packets in a non-sequential order. The Examiner respectfully disagrees with the Applicant. Doshi discloses receiving data packets, checking for any errors, storing packets that have no errors, and unloading, from a buffer, only packets that are in sequence. Thus it is possible to receive packets out of sequence. Furthermore, the Applicant respectfully traverses that the Jones et al. patent is not capable of receiving a plurality of data packets over different ones of a plurality of channels. The Examiner respectfully disagrees with the Applicant. Jones suggests transmitting to a receiver, via a plurality of unique virtual channels, packets bearing a credit for a particular virtual channel. As the claims are interpreted in their broadest sense, the Examiner believes that the combination of Doshi et al. (US 5,222,061), Jones et al. (US 6,944,173), and Larsen et al. (US 6,810,428) indeed do render the Applicant's invention obvious, therefore unpatentable.

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